

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL SPECIAL MEETING ON MONDAY, JANUARY 9, 2023, AT 6:30 P.M., VIA ZOOM: [Join Zoom Meeting https://us02web.zoom.us/j/88308794388](https://us02web.zoom.us/j/88308794388) Meeting ID: 883 0879 4388 Dial by your location +1 305 224 1968 US +1 309 205 3325 US Meeting ID: 883 0879 4388.

Present were Vice Chair Michael Sacks and Commissioners Michael Beauchamp, Robert Breckinridge, Carol Hauss, and Kevin Tobin. Also present was Emily Kyle, Planning and Community Development Specialist/Wetlands Agent and Rachael Burstein of Tyche Planning & Policy Group.

Vice Chair Sacks called the meeting to order at 6:31 p.m. He is the Acting Chair because Chair Michael Feldman has recused himself from Application #785. Commissioner Gary Gianini also recused himself. There is a quorum of 5 Commissioners.

I. PUBLIC HEARING:

PENDING APPLICATION:

APPL. #785 - 100 Nod Way, LLC, Owner and Applicant; request for regulated activities within the 100 foot upland review area: construction of thirteen (13) single-family houses and eight (8) buildings containing forty-two (42) townhouse common interest units, driveways, utilities, and related site work. Location: 100 Nod Road, Parcel 3290100 (the "Property").

E. Kyle read the Legal Notice for the Public Hearing. Vice Chair Sacks read Section 1.1 of the Avon Inland Wetlands and Watercourses Act (the "IWWA"). He began by saying that this Application is being reviewed by the IWC because part of this project is within 100' of an identified wetland or watercourse. The IWC will evaluate if the wetland is properly designated, whether there is a significant, negative environmental impact on the wetlands or watercourses, and whether there are alternatives which will cause less or no environmental damage. Recognizing the importance of a protective buffer zone, the IWC's purview includes change likely to occur up to 100' outside wetland boundaries. According to Section 2.1 X. of the Avon Regulations, the IWC may rule "that any other activity located in any other non-wetland or non-watercourse area is a regulated activity if it finds that such activity is likely to impact or affect wetlands or watercourses in a substantial and detrimental manor." The purpose of the Public Hearing is to give members of the public an opportunity to learn more and comment upon an application that is provoking widespread public interest. Public statements are valuable to the IWC only if they bear upon the specific issue related to wetlands that the IWC is authorized to consider. All the decisions must be based upon evidence that is entered into the record of the meetings including all the written statements sent to the IWC prior to tonight. Please aim any remarks to provide evidence of substantial damage to the functions and values of wetlands and watercourses or to raise relevant questions that show the need for further study or inquiry. The Public Hearing will end only after every person wishing to speak has had the opportunity to do so. If there is not sufficient time this evening, this meeting will be continued. If approved, the Application must go in front of the Planning & Zoning Commission. No construction can begin without their approval. It is at the Planning & Zoning Public Hearing that the public will have the

opportunity to express concerns about a wider range of issues than those relevant to wetlands and watercourses.

R. Burstein went through the instructions, procedure and protocol for this meeting.

Attorney Timothy Hollister of Hinckley Allen spoke on behalf of the Applicant. Also present for the Applicant are P. Anthony Giorgio, a Principal of the Applicant, Guy Hesketh and David Ziaks, both Professional Engineers of F.A. Hesketh & Associates, Inc., William Kenny, Soil Scientist, Wetlands Scientist and Landscape Architect, of William Kenny Associates, and Attorney Christian Mines of Hinckley Allen.

T. Hollister asked about the North Central Conservation District (“NCCD”) report which was requested by the Town of Avon. E. Kyle will present that report.

T. Hollister said that Notice of the Public Hearing was published in The Hartford Courant on December 29, 2022 and January 5, 2023, as required. He said that the Notice referred to the entire project but he would set forth exactly what portion of the project is in the upland review area. His office sent the required Notices to abutters and provided an original of the Certificate of Mailing to the Town.

T. Hollister began his presentation by saying that the property is 9.3 acres and it was actually created by the Town of Avon in 1997 when the Town straightened Nod Road. The Town channelized the stream on the south end of the Property through a culvert at the south end of the watercourse. Most of the watercourse at the north end was also put into a pipe or culvert so now there is no evidence of any surface water flowing – it is underground. Overall, this is a highly modified drainage system built by the Town and for the benefit of the runoff from Hunter’s Run. This is a significantly disturbed site – both its wetlands and watercourses. The NCCD noted this in its report. The wetlands permit from the IWC to the Town for this work was granted in 1993. The watercourses on the Property at the north and south ends are Town made and not natural. T. Hollister presented a slide showing an aerial view of the Property and the current condition of the Property including the two roads and the surrounding usage. The Property is served by water and sewer. The Town identified the Property in its 2016 Plan of Conservation and Development (the “POCD”) as appropriate for small multi-family development or a cluster subdivision. The storm water that crosses the Property today is dependent upon how the Hunter’s Run Homeowners Association and the Town handle and maintain this storm water system. On the west side of Nod Road, the golf course owner has excavated a ditch that runs parallel to Nod Road and constructed a berm to protect the golf course from any overland flow. The ditch channels the water to the north and the northeast to the ponds that are on the golf course. The distance from the Property to the Farmington River is mostly flat and is about 1,300’ and the Applicant’s technical analysis is that there is no storm water from the Property that affects the Farmington River. The water flows across the golf course and infiltrates into the ground. There is no existing hydrologic connection between the Property and the Farmington River. T. Hollister then referred to a map showing the 100 foot upland review area on the Property which is not a wetland area but an area where the IWC has the ability to review proposed construction activity to see if there is an adverse impact on a wetland or watercourse. Next, he showed the proposed development plan overlaid on the upland review area. The development plan does not involve any direct filling, disturbance or

impact on any watercourse or wetland. The only activity that requires a permit is work within the 100 foot upland review area. The plan is carefully designed to stay away from the Town made north end drainage channel and the south end watercourse so that there will not be any direct or indirect adverse watercourse impacts. T. Hollister pointed out that there are a set of limitations – the IWC’s jurisdiction is wetlands, watercourses, and proposed activities within the non-wetland upland review area for a potential impact and if the IWC does not receive expert evidence (i.e. soil science and wetlands hydrology and geology) that the proposed regulated activities will have an adverse impact on a function of an existing watercourse, then the court cases say that the IWC cannot deny the application.

G. Hesketh looked at three sources of runoff from the Property. The south drainage feature which historically had a culvert crossing the former Nod Road (now Nod Way) traverses from east to west through the golf course. The north drainage area picks up runoff from the residential area to the east – historically that entered a cross culvert on the former Nod Road and was conveyed by a ditch along the edge of the road and discharged onto the golf course. The third area that contributes to the Property picks up runoff from the immediate area adjacent to the center portion of the Property. Historically it conveyed overland drainage (not a drainage channel) which discharged across and through the Property, flowed onto the former Nod Road, and then overland onto the golf course. When the drainage improvements were made with the Nod Road reconstruction, a new culvert was constructed across the former Nod Road (now Nod Way) where a larger culvert with headwalls was put and work was done in the channel to convey that runoff underneath Nod Road. Another improvement was the water drainage feature that entered along the north side and flowed along the edge of the road. A number of catch basins were added in Nod Way which are tied into the manholes that interconnect the segments of pipe. This was completely culverted along the edge of the right of way and the old drainage ditch was filled. This storm drainage system picks up the runoff from the east that enters Nod Way from the high point and conveys that flow onto the Property. Historically that water ran straight across and went out through the golf course but when the new Nod Road was built now there was an issue with the runoff that formerly was conveyed overland along the eastern side of Nod Road so as part of the reconstruction project, a cross culvert was installed. In addition to taking the runoff from the Property, it also picks up runoff from the reconstructed portion of Nod Road. The topographical survey depicts the existing topography of the parcel and shows the drainage improvements including the storm drainage system in Nod Way and Nod Road, the cross culverts that are located on the south, the culvert entrance on the north, and the conveyance culverted system that runs along the edge of Nod Way. The northern drainage conveyance discharges to a swale that discharges to the irrigation pond on the golf course. The southern drainage traverses the golf course through a well-defined channel. G. Hesketh continued that the Applicant’s proposal has no impact to the southern watercourse or the upland review area associated with that. The land does slope down to the north and he has maintained the grade so any development on the Property will not direct runoff into the southern upland review area. They are proposing a water main extension along Nod Road that will have impacts within the upland review area associated with the watercourse that crosses in the culvert. On the northern end of the Property, there will be some impacts in the upland review area but they are hydrologically down gradient of this area so any impacts cannot enter or result in any storm water entering the watercourse in the regulated area. The Applicant has taken care to make sure to manage the inflow of runoff that comes off the Property by conveying it through the Property

and then managing any storm water that comes off the developed portion of the site. Along the eastern edge of the Property, there is a drainage area coming from off site and the proposal is to manage that runoff by collecting it, conveying it through culverts on the Property, and then conveying it to the discharge area where the water currently goes which is along Nod Road. There are a number of smaller drainage systems proposed in the development that include catch basins, outfalls, another system that collects runoff from paved drives and parking areas, and a number of water quality features such as water quality basins. G. Hesketh continued that the subsoil here is characterized as sandy soil which has a relatively high permeability so he designed the storm water management system to take advantage of those soils. The water quality basins are shallow depressions that he designed throughout the Property to collect storm water runoff, pond it in a shallow depressions to collect storm water runoff, and be allowed to infiltrate into the subsoil. He mimicked the hydrological characteristics of the existing site condition by temporarily detaining the water and allowing it to infiltrate into the underlying soils. He also included water quality basins which will outflow to an outlet structure which is a riser slightly elevated above the basins so when the water reaches a certain height it flows into perforated pipe which allows storm water to infiltrate into the underlying soil. The three storm water quality basins provide treatment for removal of sediments and other pollutants and is in conformance with CT DEEP guidelines which have a minimum recommended water quality volume of a minimum of 1" of runoff over the site which represents about 90% of any storm for any given year. DEEP also has a requirement for ground water recharge volume which the project exceeds. The Town has a requirement that when you increase impervious area on a site due to rooftop and paved areas (if unmitigated, you would have an increase in peak rate of runoff from the site), so G. Hesketh's drainage calculations follow DOT methods for storm water analysis and he demonstrates that with the volume detained in the water quality basin there is actually a modest reduction in peak flow and volume from runoff. They did a number of test pits on the site, looked at the types of soil, and measured the ground water table. The DEEP recommends infiltration basins as part of a design that should drain within 48-72 hours after a storm event and these basins will drain within that time frame. Sedimentation and erosion control are in the plans and meet the DEEP Best Management Practices. It is his professional opinion that the erosion and sedimentation control plan presented meets the DEEP guidelines. The plans do show proposed utilities – CT Water has water south of the site so the Applicant will install a water main to bring service from the south, the water service will have fire hydrants located at strategic locations to meet fire code requirements, electric and communications services are available now in Nod Way in the former right of way and will be adequate for this site, and all the units will be serviced by sanitary sewer. A gravity sewer will collect sewage from the townhomes which will flow by gravity to a pump station located on the northwest corner of the site. A couple of the single-family homes will also gravity flow into the pump station which will provide lift. There will be an additional gravity flow system along the frontage of the single-family homes and that will enter into an existing sanitary sewer on Nod Way that partly serves the residential areas. G. Hesketh said there is no direct wetland or watercourse impacts in this proposal. There are minor disturbance areas within the upland review area – one is located adjacent to the north drainage feature and the construction of the water main will have some impacts in the south upland review area but those will take place within the corridor of the existing roadway underneath the cross culvert located there. Appropriate sedimentation and erosion controls will be implemented with that.

B. Kenny was hired to study the Property to determine if and where wetlands and watercourses are located, to assess the conditions of those resources located on and adjacent to the Property, to help create a development that would avoid any impacts to the wetlands and watercourses, and to do an assessment of existing and proposed conditions with regard to potential adverse impacts to wetlands and watercourses. He stated that it is his professional opinion that the project is designed and can be constructed in a way that will not adversely impact any inland wetlands or watercourses either on the Property or adjacent to the Property. His work involved both a site investigation and digging test pits with hand tools throughout the Property to examine and review the soil types and examining offsite properties by reviewing online government maps and public lands. The only area of inland wetlands and watercourses that he located are in the southern portion of the Property – a small stream that runs east to west which is piped below Nod Road and Nod Way. This occurred in 1997 when Nod Road was reconstructed - as part of that work the western portion of the stream was channelized and the alignment of the stream was altered. There was quite a bit of disturbance to the stream in that area including the piping of the stream below Nod Road. He identified and field marked the boundaries of that watercourse system. On the northern end of the Property, he identified a stream that runs east to west and comes down from Talcott Mountain and enters a culvert below Nod Way at the northeast corner of the Property which runs to Nod Road and discharges northwest of the Property into the manmade pond on the golf course property. The stream existed as an aboveground surface feature at the time that the DOT made the drawings for the relocated Nod Road. That watercourse and the associated wetlands were eliminated with the piping of the watercourse and the earthwork that occurred in that area. Water discharged during storm events has eroded a channel on the Property that did not exist before. Since the relocation of Nod Road, the channel appears to convey water just during a storm event. That drainage channel does not meet the definition of a regulated watercourse according to the State Statutes and Town Regulations. Recently the NCCD did a site inspection, reviewed the Property, and submitted a report dated January 5, 2023. Their conclusion was that the wetlands delineation shown on the plans and drawings accurately represent wetlands boundaries and soil conditions observed during their field inspections. B. Kenny assessed the conditions of the wetlands on the property, how they function, and why they are wetlands or watercourses. A major item to consider is the water flow to a wetland or watercourse because the design objective is to avoid any impact to wetlands. The storm water from this development does not flow to the wetlands or watercourses either on the Property or adjacent. These watercourses are in different watersheds – the proposed development is in a watershed separate from the wetlands and watercourse in the southern end of the Property and the water from the development does not flow to that wetland. The wetland and watercourse at the north end of the Property is actually upstream to the project so storm water from the development does not flow to that watercourse. If water is not flowing to those features, there is little to no potential for an impact. The stream and the wetlands on the southern end of the Property have a moderate capacity to discharge groundwater due to its location right at the base of the slope of Talcott Mountain which contributes to the stream. The Property's capacity to store floodwaters is relatively low because its physical structure is a channel rather than a basin and for the same reason its ability to modify water quality is also low. It does have a good capacity to export natural, organic materials which break down and decompose, are exported downstream, and are used by aquatic organisms downstream as food. Because it is both a stream and a wetland, it has a moderate capacity to contribute to the abundance and diversity of both flora and fauna. Nearly the entire residential development is outside of the 100 foot upland

review area. The only other review area that extends on site is in the northeastern part of the Property. There are two proposed detached houses in that area and the driveways fall within that 100 foot upland review area but the driveway and the house are all downstream, not draining towards the stream, and on the opposite side of the existing road in that area so their potential to have an impact is little to none. The proposed water main southwest of the Property is in the relocated Nod Road. That construction will occur within the existing paved roadway, it is a very small disturbance area, and has a very linear disturbance feature so there is little potential of soil erosion and sedimentation. B. Kenny considers four different conditions for the impacts to wetlands and watercourses: both short and long term and both direct and indirect impacts. Short term is during construction and long term is after construction. Direct means activity within the wetlands itself. This project will have no activities within a stream or within a watercourse so there is no potential for direct, adverse impacts during or after construction. Indirect activities occur outside the wetlands and for this development it is limited to the flow of water from a non-wetland area to a wetland area. The storm water management during construction is related to soil erosion and sedimentation management and after construction relies on the storm water collection, treatment and discharge of storm water. The storm water from this development does not drain to the wetlands but it does lead to another stream, wetland, or open water elsewhere. The project does include Best Management Practices for during and after construction. The water is collected and treated before it is able to leave the site. Because the site is underlain with soil material that is very well draining, there is very little surface water runoff from the Property. The runoff from small, frequent storms (often called the “first flush”) will be collected and put into the infiltration basins that are proposed and the water will be allowed to infiltrate into the ground or evaporate. It will run through vegetation, native plantings within the basins, and the soil with root systems of those plantings. The water will be cleaned and eventually will flow over 1,000’ to the Farmington River but will not have any impact on the River. The project team contacted DEEP regarding rare plant and animal species and habitat that might be located on the Property. DEEP checked their Natural Diversity Database and noted that the Property is in an area where eastern box turtles are known to be present. The Applicant will follow the State’s Best Management Practices during construction (including exclusionary fencing such as silt fencing to close off the area and having a wildlife biologist review the Property) to ensure that if turtles are present on the site they will not be harmed. This is standard practice.

T. Hollister continued that the law requires that if there is evidence of an adverse impact on a wetland or watercourse, an applicant must explain why he cannot further reduce or totally avoid the impact. For example, if you are proposing to fill a wetland to build an access road, the law requires you to contemplate why you cannot build a bridge over the wetland instead of filling it. The legal requirement for the IWC issuing a wetlands permit is that they must make a finding that “no feasible and prudent alternative” exists to the development plan. But the requirement is satisfied under the law if the applicant shows no impact to the wetlands or watercourse. If there is no impact, there is no need to delve into any alternative. G. Hesketh added that the current plan was submitted because it had no direct impact on the wetlands, as well as no impacts in the upland review area so it was the most prudent and feasible alternative. He continued that regarding the water main there is no alternative for that location because water companies want their water mains in the right of way for access for repairs. He believes their design for the water main is the most feasible and prudent alternative. Looking at the area in the northeast portion of the development where there are single-family homes, B. Kenny has indicated that there are no

direct impacts to the wetlands and watercourses and the minor nature of the activities in the upland review area (which are not hydrologically connected to the watercourse) also have no impact. T. Hollister said that he received comments from the Town Engineer which included few wetlands comments or concerns but there will be additional sanitary sewer related items that will be addressed prior to approval at the Planning & Zoning level. T. Hollister said the Applicant will comply with each technical comment as a condition of approval. The development does not touch the existing drainage. The development within the upland review area will be minor and temporary, not in a wetland or watercourse, and will not have any adverse impact on a wetland or watercourse. The no feasible and prudent alternative requirement is satisfied by the avoidance of impacts and the law is that unless the IWC receives evidence from an expert of actual adverse impact, then it should approve the application.

E. Kyle said the NCCD was brought in by the Town's suggestion to review Application materials and to conduct a wetlands soil analysis. This was recommended to identify any concerns or discrepancies with wetland delineation that was submitted along with the Application. The NCCD concurred with the wetlands delineation data that was submitted with this Application. They were able to take soil samples despite the snow and were successful in conducting a complete analysis of the soil conditions there. They also reviewed the erosion control that was proposed as part of the plans and they made suggested revisions. The report continued that there are potential long and short term impacts which are common with any land development project. Proper storm water management plans provide protection from these potential impacts. All the storm water management plans were reviewed by the Town Engineer, Larry Baril and the Assistant Town Engineer, Matt Brown. The Applicant has said they will comply with all comments. L. Baril stated to E. Kyle that he is comfortable with the storm water management plans as long as the proposed volumes are met. He also suggested that an as-built survey should be required prior to the issuance of any building permits and after construction is completed to ensure that volumes have not been altered by silt resulting from the construction. The as-builts should also show the piping that was put in place to make sure that it is compliant with plans that we have received and evaluated. In conclusion, the Engineering Department is comfortable with the storm water management plan which was proposed to avoid adverse impacts to adjacent wetlands and watercourses.

M. Beauchamp asked about the proposed rain gardens or water basins which are part of the storm water management. T. Hollister said there are catch basins. M. Beauchamp asked if they would need any annual maintenance and G. Hesketh answered that there would be routine maintenance required. M. Beauchamp asked if the road going to the townhouses would be a private road and G. Hesketh said yes. M. Beauchamp asked where the snow removal would go - specifically would it be kept away from the south stream. G. Hesketh said snow would be piled between the units and during a heavy snow event it would have to be hauled offsite. M. Beauchamp asked if owners would pay a monthly maintenance fee for this and G. Hesketh said it would be part of the operating fees associated with the common interest community.

R. Breckinridge stated that on the east side of Nod Road on the northeast corner of the Property there is a 42" pipe that goes under the road, extends onto the upland review area, and cuts back under Nod Way. He asked where that pipe goes. G. Hesketh said this 42" inlet culvert connects to several manholes, goes across Nod Road, and discharges to a flared end section. R.

Breckinridge asked how deep is that pipe. G. Hesketh said that the pipe is not buried very deep. R. Breckinridge said how they would protect the culvert during construction from collapsing. G. Hesketh said the culverts are designed to bear a load from a full-size truck on them with a 1-1/2 foot of cover which they have now. These pipes are designed for roadway traffic. R. Breckinridge asked about grading in that area and G. Hesketh said it will be minimal and they may need fill because the lots in that area grade down towards the center of the parcel. The houses and driveways themselves will not dip down from the road and there will be fill brought in to raise the houses to the edge of the road. R. Breckinridge asked if the culvert gets plugged up, will the water overflow into the road and go into the development. G. Hesketh said that under current conditions if the pipe were to get plugged, the runoff would go down Nod Way and would not enter the homes themselves. R. Breckinridge asked whose responsibility it is to maintain the culvert. G. Hesketh said if it is within the right of way for the Town's drainage system, then it is the Town's responsibility for inspection and maintenance of those drainage improvements. R. Breckinridge asked about the perforated pipe system in the storm water management system. G. Hesketh said some perforated pipe was included to allow for infiltration. R. Breckinridge said that the soil in that area is very saturated at certain times and he asked if the perforated pipe will work in saturated soil. G. Hesketh said the storm water management report has information on ground water level measurements that were taken and they also take into account the type of soil. R. Breckinridge asked what time of years the measurements were taken. G. Hesketh said the test pits were done in January, 2022 and additional measurements and infiltration testing was done in March, 2022 which is the expected time for seasonal high groundwater. R. Breckinridge asked B. Kenny about the turtle management system. B. Kenny said the turtles are dormant from November 1 to April 1 so the most concern is from the beginning of April to the end of October. R. Breckinridge asked about doing construction outside of the nesting period and B. Kenny replied that you would not be able to prevent the breeding from happening during the construction season. R. Breckinridge asked how you can ensure that this storm water management system is maintained properly. G. Hesketh said there was a post construction storm drain maintenance plan on Sheet NT-1 of the Plans. He believes that a condition requiring periodic inspections of this plan would be acceptable to the Applicant. G. Hesketh thinks that it is in the best interests of the operator and the association to maintain the system because if not, the nuisance if the system does not work properly will be on the residents. R. Breckinridge asked E. Kyle if the responsibility to maintain will be on the association or the Town. E. Kyle said that it would be the association's and she suggests that the Town receive a report annually regarding the maintenance operations conducted that year, similar to other large projects in Avon that annually submit similar maintenance progress reports. T. Hollister said the Applicant would be willing to do that. R. Breckinridge said this should be a condition of approval.

C. Hauss said that this site is wet and she asked about the percentage amount of impervious surface. She did not see a landscaping plan and there seemed to be a lot of concrete and blacktop. G. Hesketh said he did prepare a planting plan which is in the Application. He said street trees would be planted along Nod Road and Nod Way and the single-family homes would have lawn area with homeowners deciding what trees they would like planted in their yards. The plan includes a significant buffer between the townhomes and Nod Road including a variety of deciduous and evergreen trees and shrubs. There will be perimeter plantings around the water quality basins. The basins themselves will be lawn area, as well as the areas between the

driveways and the buildings. There will be a number of tree plantings throughout the site to provide shade and aesthetics. C. Hauss asked if the Best Management Practices for a storm water management plan had been reviewed or updated in terms of climate change. G. Hesketh said rainfall intensity data is from NOAA and is real time and updated monthly or weekly so at the time of his report, the data is the most recent.

K. Tobin had no questions. Acting Chair M. Sacks then referenced several of the letters written by residents. The first from Dorothy and Dominick Cinti regarding the feasible and prudent analysis in the Application which says that “no development as an alternative assumes this property will continue to be left in the present undeveloped state. This option would be contrary to the recommendations noted in the 2016 POCD for 100 Nod Road and the previous development practices developed for most properties along this stretch of Nod Road.” The Cintis’ comment was that “in 2016 Avon’s POCD raised the possibility that the island framed by Nod Road and Nod Way.... “May be appropriate for a cluster subdivision or small multi-family development”. This was identified as an idea warranting further investigation, an idea which “should not be interpreted as likely to” mean approval. Acting Chair Sacks feels that the concern over flooding should be given consideration and continued “....Even if the 100 Nod Road island is left in its current natural state, client change will increase the likelihood of water issues on the island itself and flooding of Nod Road....” Acting Chair Sacks said the current expectation of severe rainfall is the expected climate change ahead. The Cintis also expressed concern about the Farmington River. Acting Chair Sacks said that offsite wetlands are a concern for several residents, as well as what will happen if you get flooding from the Farmington River or from the mountain and where that water will go. A letter from Andrew Rothstein had a similar concern about pollution. Acting Chair Sacks would also like to know how the Applicant will deal with the salt runoff. He talked about the letter from John and Laura Corning reporting on their experiences with flooding over several decades. A letter from Gillian Smits who is an avid birder and collects scientific data for Cornell University raises concerns about the bird life in the area.

T. Hollister reiterated that the issue is whether there is an adverse impact to a function of a wetland or watercourse. B. Kenny has given testimony as an expert that there is no impact. Birds, turtles and salamanders are not the protected resource even if there is some evidence that those populations would be impacted. That is the law. This is an area of expert testimony and the residents are not experts in wetlands science or wetlands impact science which is a specialized discipline. The Avon Town Engineer reviewed the storm water management plan and found that it was in line with standards of the industry. T. Hollister said that G. Hesketh already addressed pollutant removal including road salt with a water quality basin. G. Hesketh described DEEP Best Management Practices and Standards to be sure that pollutants are removed from the storm water and not discharged off the site and the Town Engineer has said that the Applicant met all the Standards. There is no impact on the Farmington River – it is 1,300’ away with a golf course between the River and this property and there is no evidence that any water from the site reaches the Farmington River. T. Hollister said that G. Hesketh discussed climate change with respect to rainfall based on current, real time data and that is all he can do – he cannot speculate how climate change may affect rainfall in the future. The property is above the 500 year flood elevation as referenced in the NCCD report so even a large storm will not flood this property. The POCD does not have anything to do with the IWC – he mentioned it because it will be relevant when the Applicant gets to Planning & Zoning. Lastly, the no development alternative

only comes into play if there is a significant impact from a development on wetlands and watercourses. There are no impacts here so the no development concept is irrelevant. G. Hesketh said that he echoed T. Hollister's comments regarding the storm water data. Regarding the culverts, he did look at the site and he noticed that the culverts across Nod Road and the one that crosses Nod Way are heavily sedimented. It does not look like those pipes have been routinely maintained. The pipe that crosses Nod Way also had a significant amount of debris. It is not unusual in a heavy storm for brush or trees to plug up the inlet to the culvert which would cause water to overtop. The Town could go in and restore the culvert to its hydrologic capacity. He recommends that the pipes be inspected and maintained routinely. He believes that the high water events are due to the debris in the pipe.

T. Hollister said that he would take notes and do a written response to all questions instead of trying to respond to each public comment in real time. Donna Striebe of 7 Templeton Court asked about the managing the water during a heavy rainstorm and why the Applicant did not choose another site for single-family development or cluster homes because of preservation and conservation. Ellison Burns of 15 Wilcox Lane asked about water availability and clean water in this area which he believes is part of the responsibility of the IWC. He believes there has been no discussion about the impact of this dense housing plan with regard to water availability and drain from the aquifer. CT Water closed one of its wells earlier this year because of PFAS contamination and the Federal government is proposing more stringent rules. E. Burns said that any new design for population growth puts a demand for water resources on the entire Town. Arthur Freedman of 4 Bridle Path is concerned with the extreme density of this housing and road with little area left for greenery. He is concerned with potential for pollution with a lot of construction in a small area and he thinks pollution may get into the groundwater and eventually to the Farmington River. He also asked why two Commissioners recused themselves. E. Kyle said that Commissioners do not have to provide their reasons for recusal on the record. Paula Licitra of 20 Gatewood would like a study(ies) on erosion control, a consult with DEEP and DOT, and expert testimony on the density. Med Colket of 36 Gatewood is concerned about the density in this area. He is also concerned about the salt that will be used in this area in the winter, septic tank implications, and the containment of the wastewater from the homes. Jim McGarrah of 10 Sylvan Street said that the Applicant admitted that it is not a simple matter to address all the wetlands, drainage and watercourse issues for this development so if this were a smaller scale project there would be fewer problematic issues. He feels that it is unknown how much of an effect there would be on the wetlands, drainage and watercourses because the project is so large. He said that the Applicant already stated that there would be changes and this amounts to "educated hope" that problems would not arise after construction. J. McGarrah thinks the IWC must consider the impacts over time and the Applicant has already deferred potential problems to the future homeowners association. Jill Adams of 120 Nod Way said that it is dismissive to not take into account the effects of climate change on these proposed plans. Dorothy Cinti of 4 Woodfield Heights wants to reinforce the statements of the last few speakers. The 2018 NOAA government report says in its conclusion "that choices about land cover patterns affect how vulnerable human communities are to the effects of climate change. Governments have the capacity to make land use decisions to adapt to the effects of climate change". The predictions in this report are dire in regard to expected precipitation in the northeast so the community needs to plan for the future. Jessica Jackson of 238 Nod Road and is concerned about rainfall predictions using real time data.

T. Hollister would like to respond in writing to the public comments in advance of the next IWC meeting. E. Kyle said that the next regularly scheduled meeting of the IWC is February 7, 2023 so if the IWC chooses to continue this Application and keep the Public Hearing open, it is within the statutory time frame.

C. Hauss made a Motion to Continue the Public Hearing for Application #785 to the next regularly scheduled meeting. R. Breckinridge seconded. The Motion passed unanimously.

II. NEXT REGULARLY SCHEDULED MEETING: February 7, 2023.

M. Beauchamp made a Motion to Adjourn. C. Hauss seconded. The Motion passed unanimously.

There being no further business, the meeting adjourned at 9:13 p.m.

Janet Stokesbury
Clerk, Inland Wetlands Commission
Town of Avon Department of Planning and Community Development